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RUCPDOC/DEPT OF COMMERCE WASHDC PRIORITY
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UNCLAS SECTION 01 OF 02 BANGKOK 004093

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STATE FOR EAP/MLS AND EB/IFD - PAUL BROWN
COMMERCE FOR 4430/EAP/MAC/OKSA
TREASURY FOR OASIA
JUSTICE FOR MARK MANDELSON

E.O. 12958: N/A

TAGS: EIND ETRD PGOV TH

SUBJECT: OPPOSITION SEEKING USG SUPPORT IN CORRUPTION
INVESTIGATION

¶1. (SBU) Summary. The Thai Department of Special Investigations (DSI, similar to the US Federal Bureau of Investigation) told us on July 7 that it will soon submit evidence of corruption to the RTG National Counter Corruption Commission (NCCC) in the purchase of fire fighting equipment by the Bangkok city government (BMA). The supplier under the Bt6.7 billion (US\$177 million) contract is Steyr-Daimler-Puch Spezialfahrezeug GmbH (Steyr) of Austria, a fully-owned subsidiary of General Dynamics Corporation of the US. The opposition Democrat Party is urging the RTG Attorney General to seek US Department of Justice assistance "to investigate suspected bribery of American and Austrian executives as well as Thai officials in the procurement..." End Summary.

US-Owned, Austrian Supplier

¶2. (U) On July 30, 2004 an "Agreement of Understanding" (AoU) was executed between The RTG (Ministry of Interior) and the Government of Austria regarding the purchase by BMA of firefighting equipment from Steyr. Forming part of the AoU was a Purchase/Sale Agreement between BMA/Ministry of Interior and Steyr. Both agreements specified the requirement for the RTG to open a Letter of Credit in the amount of Euro 133,749,780 for "European Standard" equipment. The equipment specifications form an annex to the Purchase/Sale Agreement.

¶3. (SBU) While the Purchase/Sale Agreement was signed by then-Bangkok Governor Samak Sundaravej (leader of the Prachakorn Thai, or Thai People's Party), current Governor Apirak Kosayodhin (a Democrat) opened the Letter of Credit following his election to replace Samak in August 2004. A current Democrat Party leader told us that he advised Apirak not to open the L/C but that Apirak felt pressured by then Interior Minister Bhokin to do so "because of the harm to bilateral Austrian-Thai relations" if he did not. Because the Democrats are concerned that the Thai authorities will pursue this case in a manner most favorable to PM Thaksin and least favorable to their party, they are seeking US involvement under the Foreign Corrupt Practices Act., in hope of a more even-handed investigation.

The DSI Investigates

¶4. (SBU) Police Colonel Tawee Sodsong, Deputy Director General of DSI and chief investigator of this case told us

that there were several bases for legal proceedings in the fire fighting equipment purchase and that he was suggesting a focus on internal Thai activities rather than what foreign entities may have done. The first issue is a discrepancy between a Thai cabinet resolution authorizing the AoU and what the AoU actually contains. This includes an upper limit of Euro 133 million for the contract to include all expenses while the final contract excludes Thai VAT and import duties. Tawee also said that the cabinet approved separate contracts for foreign-sourced and Thai-sourced equipment and BMA violated the decision by combining all the purchases under a single contract.

¶15. (SBU) Earlier this year Tawee visited Europe as part of his investigation, including a visit to Steyr. He says he found that Steyr did little manufacturing itself and acted as a general contractor for the contract, purchasing equipment from all over Europe and Thailand. Tawee believes that Steyr significantly padded the prices, citing as an example the purchase of Thai-made fire boats for Bt14 million which Steyr then supplied to the BMA for Bt26 million with little or no value-added. Tawee says he has requested from Steyr, and sent a corresponding letter to the Austrian Attorney General, asking for a breakdown of Steyr's costs in fulfilling the contract to see if there are any "unaccounted for" expenses. Tawee has not heard back from the Austrians.

Austrians Argue "It's All in the Contract"

¶16. (SBU) We also met with the Austrian Commercial Attaché in Bangkok, Georg Weingartner, who said that the contract was completely above-board and that arguments that similar equipment could have been purchased in Europe for much less cost simply were not based on the specifications as outlined

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in the Purchase/Sale Agreement. Weingartner admitted that the purpose of the AoU was to use it as a loophole in Thai procurement regulations to avoid a public tender. However, he said that items were purchased in Thailand in accordance with Thai cabinet requirements that procurements maximize Thai content as much as possible. Weingartner claimed it was "nonsense" that Steyr provided no value-added to the Thai-made items and that the real issue is that Steyr is caught in the middle of a Thai political battle. He noted that he has never seen any of the letters DSI claims it has sent to the Austrian government seeking assistance and that DSI has never visited the Austrian Embassy to seek information about the transaction. Note: Tawee confirmed this but added that the Austrians have never visited his office either. End Note.)

¶17. (SBU) Weingartner noted that Steyr and General Dynamics had conducted their own internal investigation of the transaction and found everything to be done in accordance with transparent and correct business practices and that Steyr had completely fulfilled the terms of the contract. He also supplied us with a comparison of prices for fire trucks Steyr supplied to Thailand in 1997 with the 2004 prices; pointing out that - adjusting for inflation - the prices were comparable. He also implied that some senior Democrat party members represent a Spanish firm that is hoping to win a new contract. He also noted (and we later confirmed) that a "technical committee under Apirak had reviewed and OKed" the terms of the contract before Apirak opened the L/C. Christian Suchs, CEO of Steyr, visited Bangkok the week of July 3 in an effort to convince BMA to take delivery of the 170 fire trucks currently sitting in a Bangkok warehouse. BMA instead asked that the contract be cancelled. Steyr is considering suing the BMA and the RTG for the cost of storing and insuring the vehicles.

¶18. (SBU) Comment. As an Austrian-Thai, government-to-government business deal, we have tried to keep the US out of this argument but the fact that Steyr is wholly-owned by

General Dynamics keeps dragging us back into the fray. We have been in touch with DSI since this issue was raised in the OECD about six months ago and offered the Thai investigators our full cooperation, which they have never sought. We have also had regular contact with the Austrian Embassy and encouraged them to conduct their own investigation of the matter. Last week, Colonel Tawee asked if we could follow-up with the Austrian Attorney General on their letter requesting information on costing from Steyr and we responded that we would seriously consider any such request but that we needed to see a copy of the letter sent to the Austrians. We have not yet received the promised copy of the letter. In Thailand, the odds are pretty good that a no-bid government contract could involve money flowing to politicians. Whether the foreign suppliers might be party to any possible corruption is not certain.

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